

CITIZENS INDEPENDENT TRANSPORTATION TRUST (CITT)

Compliance & Oversight Committee Meeting

December 16, 2003

Metro Dade Center

111 NW Streets, 10th Flr.

5:30 p.m.

Summary of Minutes

CITT MEMBERS

Henry Lee Givens , Chairperson

Hon. John Cosgrove

COUNTY ATTORNEY

Bruce Libhaber, County Attorney's Office

OTHERS PRESENT

Hilda Fernandez, Executive Director, CITT

Patty David, CITT

David Tinder, PWD

William Grodnick, City of Hialeah

Rodney McMillian, PDW

Leand Ona PWD

Jose Galan, PWD

Ari Rivera, Director PWD

Jack Furney, CITT

Virginia Diaz, CITT

Cathy Lewis MDT

Reginas Sundilands , MDT

Betty Alexander, DBD

Marsh Jackman, DBD

Pepe Valdes, CITT

ROLL CALL

With a quorum being present, Mr. Henry Lee Givens, Chairman, called the meeting of the Compliance & Oversight Committee to order at 5:35 PM.

APPROVAL OF THE AGENDA- December 16, 2003

Mr. Givens moved approval of the agenda, seconded by John Cosgrove and carried without dissent.

APPROVAL OF MINUTES – November 6, 2003

Mr. Givens moved approval of the November 6, 2003 minutes, seconded by Mr. Cosgrove and carried without dissent.

CITIZENS' COMMENTS

None

Mr. Cosgrove stated that he would be appointing the two new members Harold Braynon, Jr. and Herminio Lorenzo to serve on this committee

OLD BUSINESS

NONE

NEW BUSINESS

Memorandum Of Understanding (MOU)– City of Hialeah

Hilda Fernandez, Executive Director, CITT discussed the memo describing the background information of the MOU – City of Hialeah as well as the CITT staff recommendations. Followed by a brief summary of the consultation with the County Attorney's Office and concluded that while minority participation measures have not traditionally been applied on Memorandum Of Understanding (MOU) or Joint Participation Agreements (JPA) there is no prohibition on their inclusion. As such Ms. Fernandez recommends that all future MOU's, JPA's that utilize surtax funding include measures. (a copy of the MOU was distributed)

Ms. Fernandez further stated that she has asked Public Works Department (PWD) to work with the department of Disadvantaged Business Development (DBD) regarding what measures could have been applied to the contract had it gone through that process. The City of Hialeah was invited to attend today's meeting to speak on the issue. The options are either to accept the MOU's approval by the Board of County Commission's (BCC) or reject the BCC's action and send it back to the Commission for its reconsideration. The Committee can not add conditions to the MOU that are not included at this time. Those modifications would have to go as a rejection with a recommendation for the BCC to consider. The issue today is that this committee did not have an

opportunity to review the MOU in terms of minority participation measures. At the present time, the MOU does not have any measures required.

Mr. Givens asked the County Attorney to clarify the language of the 02-117 Ordinance.

Mr. Bruce Libhaber stated that the Ordinance sub-paragraph 6 states the following: "To monitor, oversee and periodically report to the county commission on the level of participation by CSBE and CBE's and any other contract funded in whole or in part from tax proceeds and to recommend ways to increase that participation". That means that it is well within the CITT's purview to make such recommendation to the BCC. There would be no prohibition. The CITT for example could pass a resolution requesting that the BCC who is the policy-making authority of the county to request that they include CSBE provisions in all interlocal or MOU contacts utilizing surtax funds. The Trust can also monitor or oversee existing contracts or future contacts to ascertain that they are in compliance.

Mr. Libhaber added that many if not all cities have their own degree of minority participation programs. He is not aware that the county requires any municipalities to include CBE & CSBE language.

Mr. Givens introduced the City of Hialeah Attorney William Grodnick.

Mr. William Grodnick stated I would like to start with this is a county road and this is a county project. The City of Hialeah will follow the county rules and regulations with regard to small business participation. It may not have been included in the technical language of the MOU because it was patterned after a Joint Participation Agreement that was outside the scope of the CITT. The City of Hialeah used that as a model, but clearly our contractor has to comply. However, the City's contractor will have to comply with every county regulation and intends to comply. If there is an 18% requirement for small business enterprises that participation level will be met by the contractor. The contractor will be present at that full board trust meeting December 17, 2003. The City will meet every requirement that the CITT imposes. In anticipation to the surtax passing, the City was proactive and sent out \$10 million dollars of engineering plans to be ready for use. The City of Hialeah pledged the surtax proceeds towards a \$42 million dollar bond that would be used for road improvement in the next 3 years. William's Paving has become a prime contractor. The contractors worked with DERM on numerous contracts and are at 21%, which is the CSBE allocated amount to have the names of the subcontractors listed. This particular contract only had 15% requirement but they have far exceeded it.

Mr. Cosgrove asked why is the City of Hialeah doing this project. Mr. Ari Rivera, Director, Public Works Department responded that we have contracted with the City of Hialeah in the past in order to expedite a project.

Ms. Fernandez distributed the recommended CSBE participation information provided by Rodney McMillian, PWD and Marsha Jackman, Director of DBD. The worksheet estimates about 17.7 percent participation of CSBE's had the measures been required. Ms. Fernandez requested further clarification whether the CITT needs to ensure that MOU and JPA have required measures.

Mr. Libhaber responded the ordinance says to monitor, oversee and periodically report to County Commission on the level of participation by CSBE and CBE in contracts. That means that they can monitor oversee, and report to the commission on the level of participation by CSBE & CBE in contracts. It does not indicate a mandated amount.

Mr. Grodnick noted that the project is a county project. Therefore, by definition you are improving a county road. The City of Hialeah will abide by the county rules and regulations. Again, the City of Hialeah is being proactive and did not want to wait until 2013 to begin the work.

Mr. Libhaber stated to alleviate concern the language could be added to the contract with its contractor. That would guarantee in writing the compliance. Mr. Grodnick agreed and stated the contract with the City of Hialeah to will include goals satisfactory to the DBE. Mr. Libhaber added that way there would be contractual agreement between the City of Hialeah and the contractor providing the minimum goal.

Mr. Givens moved to approve the City of Hialeah MOU and forward to the full CITT for consideration. Mr. Cosgrove added to ask the City of Hialeah to state for the record to agree to provide the information upon signing the contact for review subject to the review being appropriate no further action would be necessary. Then the Chair for Compliance will report back to committee.

Ms. Jackman stated we need to be careful as to language and what are the expectations of the main or prime contractor versus the subcontractor. Mr. Givens asked Mr. Grodnick to work with Marsha Jackman's office to draw up the appropriate language.

Mr. Cosgrove made the motion to move the MOU out of Committee and forward to the full trust. Mr. Givens seconded the motion and the motion was carried without dissent.

Mr. Cosgrove stated the chair would place the item on the agenda for tomorrow December 17, 2003.

Ms. Jackman stated that a DBD emergency review committee meeting has been scheduled for December 17, 2003.

Mr. Givens asked Ms. Fernandez to ask all of the municipalities to submit their minority participation programs to the Trust for reference. Mr. Givens thanked the City Attorney of Hialeah for attending.

ADJOURNMENT

There being no further business, the meeting adjourned at 6:20 PM